

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
CASE NOS. 5:15CV57-RLV; 3:15CV211-RLV**

ROMONA WINEBARGER,)	
and REX WINEBARGER,)	
Plaintiffs,)	
)	
v.)	
)	
BOSTON SCIENTIFIC)	
CORPORATION,)	
Defendant.)	
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MARTHA CARLSON,)	
Plaintiff,)	
)	
v.)	
)	
BOSTON SCIENTIFIC)	
CORPORATION,)	
Defendant.)	
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ORDER

THIS MATTER is before the court on Defendant Boston Scientific Corporation’s (BSC) Motion to Sever and Conduct Individual Trials, Plaintiffs’ Memorandum in Opposition, and Defendant’s Reply. (Docs. 133, 134, 137, 152).

On May 15, 2015, the undersigned consolidated these matters for trial *sua sponte* pursuant to Fed. R. Civ. P. 42(a)(1). (Doc. 108). The Court consolidated these two cases for trial upon initial review of the record, noting the existence of “common question[s] of law or fact.” (Id.) BSC’s motion, although well taken, does not alter the Court’s view that consolidation for trial is, in fact, proper. Significantly, the two consolidated trials that have occurred to date within *In re: Boston Scientific Corp. Pelvic Repair Sys. Prods. Liab. Litig.*,

MDL No. 2326 – both involving the same BSC product – have been successfully and efficiently litigated.¹ As more thoroughly analyzed within Plaintiffs’ response, the common issues of law and fact, as well as the *Arnold* factors, favor consolidation.² (Doc. 137, 2–5). Similarly, the Court finds that BSC will not be unduly prejudiced by consolidation. *See e.g., Frankum v. Boston Scientific Corp.*, 1:15CV91-MOC, June 22, 2015 (“[T]he court finds that any potential jury confusion and prejudice can be avoided if the evidence is presented in an organized manner and with proper jury instructions”). In short, consolidation of these two individual plaintiff’s causes of action for trial is quite manageable and will serve the interests of justice. For these reasons, BSC’s motion will be denied.

IT IS HEREBY ORDERED that Boston Scientific Corporation’s Motion to Sever and Conduct Individual Trials is hereby **DENIED**.

Signed: July 17, 2015



Richard L. Voorhees
United States District Judge



¹ These cases are transferred to the Western District of North Carolina (the original transferor court) from the Southern District of West Virginia (the original transferee court), *In Re Boston Scientific Corporation Pelvic Repair System Products Liability Litigation*, MDL No. 2326.

² *See Arnold v. Eastern Airlines, Inc.*, 681 F.2d 186, 193 (4th Cir. 1982).